

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Criminal No. 18-3495 JCH
	)	
Douglas Smith,	)	
	)	
Defendant.	)	

ORDER CONTINUING TRIAL SETTING AND SETTING FORTH CASE-SPECIFIC  
FINDINGS FOR EXCLUSION OF SPEEDY TRIAL ACT TIME

On April 27, 2020, the Court entered Administrative Order 20-MC-00004-17 which continued all criminal trials scheduled to commence during the month of May, 2020. The instant matter is scheduled on a trailing docket beginning May 18, 2020. Consistent with the requirements of the Speedy Trial Act, the United States seeks an order making individualized findings in support of the exclusion of time from the Speedy Trial Act from the original trial date to the new trial date. Specifically, the Court FINDS that the ends of justice served by the continuance of the trial in this matter outweigh the best interest of the public and the defendant in a speedy trial because:

- (1) The Coronavirus “COVID 19” pandemic has been declared a national emergency by the President of the United States and the New Mexico State Governor declared a state public health emergency.
- (2) Failure to continue the trial in this case will likely make its completion impossible due to public-health risks posed to prospective jurors, witnesses, attorneys, court personnel, and the defendant.
- (3) The health risks posed by the virus also will adversely impact the ability of the Court to obtain an adequate spectrum of jurors and reduce the availability of counsel and the Court.

(4) In addition to the the district-wide public-health risks, an ends-of-justice delay is appropriate because:

- Counsel, United States Attorney's Office personnel, and victim-witness specialists have been encouraged to telework to minimize personal contact to the greatest extent possible. Trial preparation necessarily involves close contact with witnesses, inconsistent with advice from the Centers for Disease Control and Prevention.
- The trial involves multiple local law enforcement witnesses who, pursuant to their work obligations and constant contact with the community, present an increased likelihood for spread of the virus.

(5) Furthermore, due to the restrictions imposed by current public-health concerns, it is also unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within Speedy Trial Act time limits.

**IT IS THEREFORE ORDERED** that, pursuant to 18 U.S.C. § 3161(h)(7)(A), such time between the Speedy Trial deadline and the commencement of the trial, which will be set by separate order, shall be excluded for purposes of the Speedy Trial Act and that the ends of justice are best served by granting the requested continuance. The ends of justice are served by ordering this jury trial continuance, and outweighs each defendant's right to, and the public's interest in, speedy trial.

**IT IS FURTHER ORDERED** that the Call of Calendar hearing of May 7, 2020 and the Jury Selection/Trial of May 18, 2020 are VACATED. Call of Calendar, Jury Selection/Trial and corresponding deadlines are reset as follows:

Event	Date/Deadline
Jury Selection/Jury Trial (trailing docket)	June 15, 2020
Calendar Call	Thursday, June 04, 2020 @ 1:30 p.m.
Motions in Limine	Monday, May 25, 2020

Event	Date/Deadline
Response to Motions in Limine	Wednesday, June 03, 2020
Motions to Continue	Thursday, May 21, 2020

Before Judge Judith C. Herrera at the United States Courthouse, 333 Lomas Blvd., N.W., Mimbres Courtroom, 4<sup>th</sup> Floor in Albuquerque, New Mexico.

**IT IS FURTHER ORDERED** that the pretrial motion deadline is hereby extended until **Thursday, May 14, 2020**. The pretrial motion deadline applies to all motions, including Daubert Motions. Motions in Limine have a separate deadline.

**IT IS FINALLY ORDERED** that counsel shall adhere to the Court's instructions and case management deadlines as set forth in the following attachment, "Pretrial Deadlines before The Honorable Judith C. Herrera."

  
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JUDITH C. HERRERA  
SENIOR UNITED STATES DISTRICT JUDGE